

III. REMARKS

Claims 1-34 are pending in this application. By this response, 1, 11, 15, 25 and 34 have been amended to clarify the subject matter of the invention. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed in this paper. Furthermore, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Claims 1-21, 23-28, and 30-34 are rejected under 35 U.S.C. § 102(e) as being anticipated by Brown et al. (US Patent Publication No. 2002/0065766 A1, hereinafter, “Brown”). Initially, Applicant respectfully notes that it is technically the provisional application 60/230,079 that predates the filing of Applicants’ application. As such, any reference to Brown must be likewise taught in the provisional application.

With regard to claim 1, Applicants respectfully submit that Brown fails to disclose each and every feature of the claimed invention, including, for example, a system for implementing an electronic marketplace via a network, including “a market maker that receives orders for a series of call auctions from a plurality of nodes in the network, wherein each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that is subsequent to the order being placed by a participant and precedes the order being received by the market maker” (emphasis added).

In other words, Applicants’ system includes *agents* that (1) receive orders from participants, (2) time stamps the orders after they are received; and (3) forwards them to the market maker. Thus, the time stamp is subsequent to the order being placed by the participant,

but before the order is received by the market maker. Conversely, while Brown teaches the use of a timestamp for a bid, the timestamp reflects the time that the bid was made and submitted by the *participant*. This is explicitly described in paragraphs 0053-0054 of Brown, in which a pre-processor is described that receives data from a source (0053), wherein the source is defined, e.g., as a GUI that a user/participant interacts with to submit transaction data (0054). The transaction data includes trading instructions (0054), which “may include … [a] timestamp.” Thus, the timestamp taught by Brown is part of the transaction data that is determined at the time the order is placed by the user at a source. Nowhere does Brown teach or even suggest that the order is time stamped by the preprocessor. The Office’s assertion that “it would be the pre-processing module that receives the data and timestamps it” is clearly contradictory to what is taught in paragraphs 0053-0054.

The reason why Applicants have an *agent* time stamp the order after the order is submitted by the participant is to provide heightened security by using a trusted source to, e.g., ensure that the participant does not alter the time of the order to participate in an auction after it ends (see, e.g., page 7, lines 10-17). Conversely, Brown provides no disclosure regarding security. Instead, Brown’s teachings are directed to providing a generic, scalable marketplace system that can support multiple types of markets (see, e.g., paragraph 0029). Thus, there is no basis or reasoning taught or suggested in Brown to use the preprocessing module to timestamp orders, as there is no teaching of providing heightened security. Nor is there any other purpose taught in Brown for using the preprocessor to timestamp orders. To suggest otherwise is directly contrary to what is taught by Brown.

With respect to independent claims 11, 15, 25, and 34, Applicants note that these claims include features similar in scope to those already addressed above with respect to claim 1.

Further, the Office relies on the same arguments and interpretations of Brown as discussed above with respect to claim 1. To this extent, Applicants herein incorporate the arguments presented above with respect to claim 1, and respectfully request withdrawal of the rejections of claims 11, 15, 25, and 34 under § 102(e) for the above-stated reasons.

With respect to dependent claims 2-10, 12-14, 16-24, and 26-33, Applicants respectfully submit that these claims are allowable for reasons stated above relative to independent claims 1, 11, 15, and 25, as well as for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 102(e) to claims 2-10, 12-14, 16-24, and 26-33.

In the Office Action, claims 14, 16-21 and 23-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Madoff et al. (US Patent Publication No. 2002/0019795 A1, hereinafter “Madoff”), and claims 22 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Madoff, and further in view of Sheynblat et al. (U.S. Patent No. 6,839,021). Applicants respectfully submit that these claims are allowable for reasons stated above relative to independent claims 11, 15, and 25 respectively, as well as for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 103(a) to claims 14, 16-24, and 29.

IV. CONCLUSION

In light of the above remarks, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



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Date: March 7, 2008

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